

From the INTERNATIONAL BUREAU

PCT

NOTIFICATION CONCERNING
TRANSMITTAL OF COPY OF INTERNATIONAL
PRELIMINARY REPORT ON PATENTABILITY
(CHAPTER I OF THE PATENT COOPERATION
TREATY)

(PCT Rule 44bis.1(c))

To:

BRANCH, John, W.
Darby & Darby P.C.
P.O. Box 5257
New York, NY 10150-5257
ETATS-UNIS D'AMERIQUE

Date of mailing (day/month/year)

31 August 2006 (31.08.2006)

Applicant's or agent's file reference

200S141-WO0

IMPORTANT NOTICE

International application No.

PCT/US2004/031529

International filing date (day/month/year)

24 September 2004 (24.09.2004)

Priority date (day/month/year)

24 September 2003 (24.09.2003)

Applicant

YAHOO ! INC. et al

The International Bureau transmits herewith a copy of the international preliminary report on patentability (Chapter I of the Patent Cooperation Treaty)

The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20, Switzerland

Authorized officer

Yolaine Cussac

Facsimile No. +41 22 338 82 70

e-mail: pt11@wipo.int

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference 200S141-W00	FOR FURTHER ACTION	See item 4 below
International application No. PCT/US2004/031529	International filing date (<i>day/month/year</i>) 24 September 2004 (24.09.2004)	Priority date (<i>day/month/year</i>) 24 September 2003 (24.09.2003)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant YAHOO ! INC.		

1.	This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).																								
2.	This REPORT consists of a total of 6 sheets, including this cover sheet.																								
In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.																									
3.	<p>This report contains indications relating to the following items:</p> <table style="width: 100%;"> <tr> <td style="width: 10%; text-align: center;"><input checked="" type="checkbox"/></td> <td style="width: 40%;">Box No. I</td> <td style="width: 50%;">Basis of the report</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table>	<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input checked="" type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input type="checkbox"/>	Box No. VIII	Certain observations on the international application
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<input type="checkbox"/>	Box No. VIII	Certain observations on the international application																							
4.	The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).																								

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. +41 22 338 82 70	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Date of issuance of this report 22 August 2006 (22.08.2006)</td> <td style="width: 50%;">Authorized officer Yolaine Cussac</td> </tr> <tr> <td colspan="2">e-mail: pt11@wipo.int</td> </tr> </table>	Date of issuance of this report 22 August 2006 (22.08.2006)	Authorized officer Yolaine Cussac	e-mail: pt11@wipo.int	
Date of issuance of this report 22 August 2006 (22.08.2006)	Authorized officer Yolaine Cussac				
e-mail: pt11@wipo.int					

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:
JOHN W. BRANCH
DARBY & DARBY P.C.
P.O. BOX 5257
NEW YORK, NY 10150-5257

PC **FILED** 29 JUN 2006

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Date of mailing
(day/month/year) **26 JUN 2006**

Applicant's or agent's file reference

2005141-WO0

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/US04/31529

International filing date (day/month/year)

24 September 2004 (24.09.2004)

Priority date (day/month/year)

24 September 2003 (24.09.2003)

International Patent Classification (IPC) or both national classification and IPC

IPC: G06Q 30/00(2006.01);40/00(2006.01);G06F 7/00(2006.01)

USPC: 705/14,40;707/3

Applicant

YAHOO! INC.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☒ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/ US

Mail Stop PCT, Attn: ISA/US
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Facsimile No. (571) 273-3201

Date of completion of this opinion

01 May 2006 (01.05.2006)

Authorized officer

Raquel Alvarez
Raquel Alvarez

Telephone No. 571-272-6715

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US04/31529

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of:

- ☒ the international application in the language in which it was filed
- ☐ a translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

- ☐ a sequence listing
- ☐ table(s) related to the sequence listing

b. format of material

- ☐ on paper
- ☐ in electronic form

c. time of filing/furnishing

- ☐ contained in the international application as filed.
- ☐ filed together with the international application in electronic form.
- ☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US04/31529

Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

- ☐ the entire international application
☒ claims Nos. 23-29

because:

- ☒ the said international application, or the said claim Nos. 23-29 relate to the following subject matter which does not require an international search (*specify*):

Please See Continuation Sheet

- ☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. _____ are so unclear that no meaningful opinion could be formed (*specify*):

- ☐ the claims, or said claims Nos. _____ are so inadequately supported by the description that no meaningful opinion could be formed (*specify*):

- ☐ no international search report has been established for said claims Nos. _____

- ☐ a meaningful opinion could not be formed without the sequence listing; the applicant did not, within the prescribed time limit:

- ☐ furnish a sequence listing on paper complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Searching Authority in a form and manner acceptable to it.
☐ furnish a sequence listing in electronic form complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Searching Authority in a form and manner acceptable to it.
☐ pay the required late furnishing fee for the furnishing of a sequence listing in response to an invitation under Rules 13ter.1(a) or (b).

- ☐ a meaningful opinion could not be formed without the tables related to the sequence listings; the applicant did not, within the prescribed time limit, furnish such tables in electronic form complying with the technical requirements provided for in Annex C-bis of the Administrative Instructions, and such tables were not available to the International Searching Authority in a form and manner acceptable to it.

- ☐ the tables related to the nucleotide and/or amino acid sequence listing, if in electronic form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.

- ☐ See Supplemental Box for further details.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/US04/31529

Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims 1-22, 30	YES
	Claims NONE	NO
Inventive step (IS)	Claims NONE	YES
	Claims 1-22, 30	NO
Industrial applicability (IA)	Claims 1-22, 30	YES
	Claims NONE	NO

2. Citations and explanations:

Claims 1-22 and 30 lack an inventive step under PCT Article 33(3) as being obvious over Talegon in view of 1-800 Flowers.com. In reference to claims 1, 13, 17, and 30, Talegon teaches enabling a selection of at least one method for placing at least one bid for the keyword in the result from the sponsored search; enabling an automatic placement of at least one bid for the keyword based on the selected method; and enabling a display of predetermined content that is associated with at least one bid for the keyword and whose value is employed to acquire placement of the predetermined content in the result from the sponsored search (page 2, paragraphs 14, 16-18, and 20, page 3, paragraph 36, page 4, paragraph 40, and page 5, paragraph 45). Talegon also teaches advertising and bid placement on a keyword based on the advertiser's budget (page 3, paragraph 22). Talegon is silent about enabling at least a budget to be provided. 1-800 Flowers.com teaches enabling at least a budget be provided (page 1, right frame, the heading By Price). Since the provision of enabling the providing of a budget is a desirable feature for keyword advertising bidding, it would have been obvious to one of ordinary skill in the art to provide such a budget enabling means in Talegon.

In reference to claims 2-4, 8-10, 14-15, 18, Talegon teaches ranking the content based on the value of each bid, time slots, and viewer response (page 2, paragraph 14, page 4, paragraphs 40-41 and page 5, paragraph 45) and specifying minimum costs for maximum acquisitions (page 3, paragraph 36).

In reference to claims 5 and 6, Talegon teaches the method comprising shortest time for maximum acquisitions within a time interval budget, wherein the selected method is configured to enable an unused portion of the budget for a time interval to be included in another time interval (page 4, paragraphs 40-42).

In reference to claims 7 and 16, Talegon teaches the method wherein the keyword further comprises at least one of a provided keyword, and a generated keyword that is related to the provided keyword (page 1, paragraph 7).

In reference to claims 11 and 20-22, Talegon teaches using alternate versions of banners depending on the ones that receive the most clicks and an interface to receive the advertiser's data (page 2, paragraph 21 and page 4, paragraphs 38-39).

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Section III. Non-establishment of opinion (subject matter not requiring preliminary examination)

Claims 23-29 could not be searched, because the claims are directed to a non-statutory subject matter. Data structures not claimed as embodied in computer readable media are descriptive material per se and are not statutory, because they are neither physical "things" nor statutory processes. Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention, which permit the data structure's functionality to be realized. In fact, data structures as recited in these claims "the carrier-wave signal" are descriptive material per se and are not statutory, because this "signal" is neither a physical "thing" nor a statutory process, and it does not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention, which permit the data structure's functionality to be realized.